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DISTR. COURT OF  
THE FIRST CIRCUIT  
CLERK E. BARRERO

NISHIOKA & FUJIOKA  
A Law Corporation

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Honolulu, Hawaii 96813-3902  
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Attys. for Plaintiff

IN THE DISTRICT COURT OF THE FIRST CIRCUIT

HONOLULU DIVISION

STATE OF HAWAII

MOTORS INSURANCE CORPORATION	)	Civil No. <u>1204-1-7012</u>
and BIG ISLAND TOYOTA,	)	(Subrogation)
	)	
Plaintiffs,	)	COMPLAINT; SUMMONS
vs.	)	
	)	
YOUNG BROTHERS, LIMITED;	)	
JOHN DOES 1-10;	)	
JANE DOES 1-10; and	)	
DOE ENTITIES 1-10,	)	
	)	
Defendants.	)	

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

Clerk District Court of the First Circuit  
State of Hawaii

COMPLAINT

COME NOW Plaintiffs MOTORS INSURANCE CORPORATION (hereinafter "Motors") and BIG ISLAND TOYOTA (hereinafter "Toyota") by and through their attorneys above-named, and for their Complaint against Defendant Young Brothers, Limited (hereinafter "Young Bros.") and other unidentified Defendants, alleges as follows:

1. Plaintiff Motors is a Delaware corporation with its principal place of business in Southfield, Michigan.
2. Plaintiff Toyota is a Hawaii corporation with its

EXHIBIT 1

principal place of business in Hilo, Hawaii.

3. Defendant Young Bros. is a Hawaii corporation doing business in the State of Hawaii with its principal place of business located in Honolulu, Hawaii.

4. Unidentified Defendants John Does 1-10, Jane Does 1-10 and Doe Entities 1-10 and are individuals, corporations, partnerships, associations, governmental agencies and/or other entities who may be liable to Plaintiff for matters alleged herein and whose names, true identities and capacities are presently unknown to Plaintiff and their counsel, although Plaintiffs have made reasonable efforts to ascertain the identities and/or capacities by reviewing records and files of Plaintiffs Motors and Toyota and reviewing certain records and correspondence of Defendant Young Bros. These defendants are incorporated herein pursuant to Rule 17(d) of the Hawaii Rules of Civil Procedure, in order to permit Plaintiffs opportunity to proceed against unidentified Defendants.

5. That on or about March 23, 2003 Defendant Young Bros. was engaged in the business of transporting cargo in the State of Hawaii.

6. On or about March 23, 2003 Defendant Young Bros. dropped a spool of cable onto Plaintiff Toyota's vehicle resulting in a total loss of said vehicle.

7. Said act by Defendant was a direct and/or proximate

result of the damage to Plaintiff Toyota's vehicle of which Young Bros. and/or unidentified Defendants are liable in negligence jointly and severally.

8. At the time of said incident Plaintiff Toyota was insured through a valid insurance policy in full force and effect issued by Motors.

9. As a direct and proximate result of said damage to said vehicle, Plaintiff Toyota submitted a claim to Plaintiff Motors for the damage to said vehicle.

10. That, as a result of said claim submitted, Plaintiff Motors was obligated to pay, and did pay, the total of \$17,275.46 and Plaintiff Toyota was assessed the sum of \$1,500.00 as its deductible pursuant to the terms of the insurance policy issued by Motors.

11. Pursuant to the terms of said automobile insurance policy issued by Plaintiff Motors to Plaintiff Toyota and the payments made pursuant thereto, Plaintiff Motors is entitled to be subrogated to the rights of Plaintiff Toyota to recover said payments from Defendant Young Bros. and/or other unidentified Defendants.

WHEREFORE Plaintiffs Motors and Toyota pray for Judgment against Defendant Young Bros. and/or other unidentified Defendants as follows:

A. An award of damages in the amount of \$18,775.46, or

a greater amount to be proven at trial.

B. An award of reasonable attorneys' fees and costs herein; and

C. Such other and further relief as this Court shall deem and proper under the circumstances.

DATED: Honolulu, Hawaii, November 26 2004.

  
\_\_\_\_\_  
GREG NISHIOKA  
Atty. for Plaintiffs

## SUMMONS

TWO-SIDED FORM

Form #1DC50

**IN THE DISTRICT COURT OF THE FIRST CIRCUIT**  
**HONOLULU** DIVISION  
**STATE OF HAWAII**

Plaintiff(s)  
 MOTORS INSURANCE CORPORATION  
 and BIG ISLAND TOYOTA

Reserved for Court Use

Civil No.

Defendant(s)  
 YOUNG BROTHERS, LIMITED;  
 JOHN DOES 1-10; JANE DOES 1-10;  
 and DOE ENTITIES 1-10

Plaintiff(s)/Plaintiff(s)' Attorney (Name, Attorney Number, Firm  
 Name (if applicable), Address and Telephone and Facsimile  
 Numbers)  
 GREG NISHIOKA 4004-0  
 841 Bishop St., Ste. 224  
 Honolulu HI 96813  
 Phone: 524-8833  
 Fax: 521-4221

## SUMMONS

## THE STATE OF HAWAII:

TO: The Director of Public Safety of the State of Hawai'i, his/her deputy or any police officer or other person authorized by the laws of the State of Hawai'i:

You are commanded to summon the Defendant(s) to appear before the District Judge of this Court in his/her Courtroom, to appear at the Court designated by the checked box on the reverse side.

This Summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a Judge of the above-entitled Court permits, in writing on this Summons, personal delivery during those hours.

## TO THE DEFENDANT(S):

You are required to appear before the District Judge of this Court, in his/her Courtroom, on the day and at the time designated by the checked box on the reverse side. If the Defendant(s) is a corporation, Hawai'i law requires it to be represented by an attorney licensed to practice in the State of Hawai'i.

**IF YOU OR YOUR ATTORNEY FAIL TO ATTEND THE COURT HEARING AT THE TIME AND PLACE DESIGNATED, DEFAULT AND DEFAULT JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

**NOTICE TO ALL PARTIES (Honolulu Division only):** If this case involves a residential lease and if the Defendant(s) disagrees with the statements in the Complaint, the Court may require the parties to submit their dispute to mediation at the Pre-Trial conference that will be scheduled on the Monday, not a holiday, following the court date specified above. If the Monday following your court date is a holiday, the Pre-Trial conference will occur on the next business day. If the parties are not able to resolve the dispute within 20 minutes of mediation, the Court will set a trial date.

DEC 01 2004

E. BARRENO SEAL

Date:

Clerk of the above-entitled Court

SUMMONS, 2XX (Amended 4/18/97)  
 1D-P-602 (05/03)

SEE REVERSE

EXHIBIT 1

COURT ADDRESSES AND RETURNABLE DAYS:

☒ Honolulu Division, 1111 Alakea Street, 10th Floor Courtrooms 10A or 10B, Honolulu, Hawai'i

- ☐ at 8:30 a.m. on \_\_\_\_\_, 200\_\_ for summary possession.  
or  
☐ at 8:30 a.m. on the fifth day following date of service, excluding Saturdays, Sundays and legal holidays for summary possession.  
or  
☒ at 1:30 p.m. on the second Monday following date of service, and should said Monday be a legal holiday then upon the next business day.

☐ Ewa Division, 870 Fourth Street, Pearl City, Hawai'i,

- ☐ at 8:30 a.m. on Friday, \_\_\_\_\_, 200\_\_ for summary possession.  
or  
☐ at 8:30 a.m. on the second Friday following date of service, and should said Friday be a legal holiday then upon the next Friday.

☐ Ko'olaupoko OR Ko'olaupoko Division, 45-939 Po'okela Street, Kane'ohe, Hawai'i

- ☐ at 8:30 a.m. on Thursday, \_\_\_\_\_, 200\_\_ for summary possession.  
or  
☐ at 8:30 a.m. on the second Thursday following date of service, and should said Thursday be a legal holiday then upon the next Thursday.

☐ Wahiawā OR Waialua Division, 1034 Kilani Avenue, Wahiawā, Hawai'i,

- ☐ at 9:00 a.m. Wednesday, \_\_\_\_\_, 200\_\_ for summary possession.  
or  
☐ at 9:00 a.m. on the second Wednesday following date of service, and should said Wednesday be a legal holiday then upon the next Wednesday.

☐ Wai'anae Division, 87-1784 Farrington Highway, Nānākuli, Hawai'i,

- ☐ at 9:00 a.m. Tuesday, \_\_\_\_\_, 200\_\_ for summary possession.  
or  
☐ at 9:00 a.m. on the second Tuesday following date of service, and should said Tuesday be a legal holiday then upon the next Tuesday.

Mailing address for the Courts: 1111 Alakea Street, Civil Division, Third Floor, Honolulu, Hawai'i 96813

In accordance with the Americans with Disabilities Act if you require an accommodation for your disability, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days in advance of your hearing or appointment date. For Civil related matters, please call 538-5151.

EXHIBIT 1